

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION
C/A No. 3:22-cv-4666-DCC-PJG

Joel Demary,

Plaintiff,

v.

Jim Hudson Buick Pont GMC Saab, Inc.¹,

Defendant.

NOTICE OF REMOVAL

Jim Hudson Buick GMC Cadillac, Inc. files this Notice of Removal, pursuant to 28 U.S.C. §§ 1331, 1441(a) and (c), and 1446(a), (b) and (d), hereby notices its removal of the above-captioned case from the Court of Common Pleas for Richland County, South Carolina, to the United States District Court for the District of South Carolina, Columbia Division. The grounds for the removal are as follows:

1. On November 30, 2022, Karyn Heimes – the registered agent of Jim Hudson Buick GMC Cadillac, Inc. – discovered that Plaintiff Joel Demary (“Plaintiff”) filed a Summons and Complaint against “Jim Hudson Buick Pont GMC Saab, Inc.” in the Richland County Court of Common Pleas bearing Civil Action No. 2022-CP-40-04481. Plaintiff’s counsel had also had filed an “Affidavit of Default” on or about November 23, 2022.

2. On the following day, December 1, 2022, Jim Hudson Buick GMC Cadillac, Inc. filed a Motion for Relief from Default in the Richland County Court of Common Pleas. To date, no hearing has been scheduled on that motion.

3. Although the Summons and Complaint in this matter has never been served upon

¹ There is no such entity named “Jim Hudson Buick Pont GMC Saab, Inc.”

the registered agent of Jim Hudson Buick GMC Cadillac, Inc., or otherwise properly served, Ms. Heimes became aware of the lawsuit described above on November 30, 2022. Under 28 U.S.C. § 1446(b), to the extent that Jim Hudson Buick GMC Cadillac, Inc. is a proper defendant in this matter, it must remove under matter “within 30 days after the receipt by the defendant, through service *or otherwise*, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based...”

4. Therefore, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b), as it is within 30 days of Jim Hudson Buick GMC Cadillac, Inc.’s becoming aware of the lawsuit.

4. This Court has original jurisdiction over this action under 28 U.S.C. §1331 as Plaintiff’s Complaint asserts claims that arise under federal law. Specifically, this action is removable pursuant to 28 U.S.C. §1441(a) because Plaintiff’s Complaint asserts claims for relief under the following federal statutes: (1) Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, and amendments thereto, (2) the Family and Medical Leave Act, 29 U.S.C. § 2601, et seq., and (3) Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000e et. seq. As such, this Court has original jurisdiction over Plaintiff’s claims.

5. Venue for removal is proper in this district and division under 28 U.S.C. § 1441(a) and 28 U.S.C. § 121(2) because this district and division embrace the Court of Common Pleas for the Fifth Judicial Circuit in Richland County, South Carolina, the forum in which the removed action was pending.

6. Jim Hudson Buick GMC Cadillac, Inc. files herewith in this Court a copy of all process and pleadings contained in the Court of Common Pleas file (Exhibit 1).

7. Pursuant to 28 U.S.C. § 1446(d), a written notice of the filing of this removal is being served on Plaintiff's counsel and the clerk of court from which this action is being removed, along with a copy of this Notice (without attachments).

WHEREFORE, Jim Hudson Buick GMC Cadillac, Inc. requests this civil action be removed in its entirety to the United States District Court for the District of South Carolina and that this Court assume full jurisdiction of this cause and take all further action deemed just and proper.

Dated this the 27th day of December, 2022.

Respectfully submitted,

RICHARDSON PLOWDEN & ROBINSON, P.A.

s/Eugene H. Matthews
Eugene H. Matthews, ID #7141
Post Office Drawer 7788
Columbia, South Carolina 29202
T: (803) 771-4400
F: (803) 779-0016
E-mail: gmatthews@RichardsonPlowden.com

COUNSEL FOR DEFENDANT